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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,198	02/13/2002	Albert L. Woody	8350.8679-00	5272

7590 04/09/2004

Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER
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CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/073,198

Applicant(s)

WOODY ET AL.

Examiner

Eric D Culbreth

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3-5 and 20 is/are allowed.
- 6) ☒ Claim(s) 6, 7, 12, 13, 15, 16 and 21 is/are rejected.
- 7) ☒ Claim(s) 8-11, 14 and 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. The following is a quotation of the 37 CFR 1.75(a):

The specification must conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, there is no antecedent basis for "the control" (claim 10 depends from claim 7, and no control was recited in claim 7; it is noted that a control mechanism was recited in claim 9).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6 the recitation of "a control mechanism" is a double inclusion of the control mechanism now recited in claim 1 from which claim 6 depends.

In claim 21, line 12 "upon" should apparently be "based upon".

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 7, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Published Patent 4,100,236 (of record) in view of European Patent 867,315 (of record, cited by applicant).

German '236 discloses a first and second hydraulic cylinders 1, 1a with first through fourth (upper and lower) chambers. The line with valves 24, 25 in Figure 1 connect first and fourth chambers of the hydraulic cylinders on each side of the vehicle, and line 28 connects second and third chambers of the cylinders as broadly recited. Passage 12, 26 with restriction 27 connects the first and second fluid lines, and valve mechanism 19 between the first and second lines releases fluid from one of the lines through one of the changeover valves 13 when the pressure of fluid in one of the fluid lines reaches a predetermined level (in the English abstract, valve 19 is a pressure limiting valve). European '315 discloses in Figure 10 a work machine (note Figure 2) with a chassis 1a, an axle 11 pivoted at 11a on the chassis, and an orifice 14 in the lines connecting the shock absorbers on either side of the pivot 11a. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify German '236 to include a chassis and pivoted axle of a work machine as taught by European '315 in order to improve driving performance and comfort of the vehicle (European '315, column 1, lines 7-10). As functionally recited in claims 7 and 15, European '315 in the combination would

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teach the orifice damping pivotal movement of the axle about the pivot point, as the purpose of of an orifice in a suspension is to slow the rate of fluid transfer and hence damp movement.

7. Claims 13, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over German '236 in view of European '315 as applied to claims 12 and 15 above, and further in view of Sugasawa et al (of record, cited by applicant).

German '236 does not disclose a control mechanism to adjust the size of the orifice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify German '236 and European '315 to include a control mechanism adjusting the orifice as taught by Sugasawa et al (orifices 18L, 18R controlled by controller 28) in order to allow greater fluid flow during large wheel strokes (Sugasawa et al, abstract). In view of the broad recitation that the rate of restricted fluid flow is adjusted based upon operating conditions, as Sugasawa et al adjusts to allow greater fluid flow during large wheel strokes in the combination, the control mechanism is adjusting based on operating conditions (i.e., when operating conditions are such that large wheel strokes are occurring).

*Allowable Subject Matter*

8. Claims 1, 3-5 and 20 are allowed.

9. Claims 8-11, 14, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

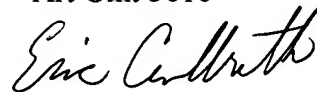
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric D Culbreth  
Primary Examiner  
Art Unit 3616



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